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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,473	09/08/2003	Ivo E. Pera	8849.6818	2676
44538	7590	12/12/2006	EXAMINER	
DANIEL S. POLLEY, P.A. 1215 EAST BROWARD BOULEVARD FORT LAUDERDALE, FL 33301			LOPEZ, CARLOS N	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 12/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,473

Applicant(s)

PERA, IVO E.

Examiner

Carlos Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 12-14, 16-18, 20-23 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-11, 15, 19 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election of claims 1-11, 15, 19, and 24 in the reply filed on 9/29/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "the charcoal granules" lacks antecedent basis.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Irimi et al (US 5,060,672). Irimi discloses a composition for the inclusion into tobacco smoke filters that comprises a mechanical and chemical filtering components. The composition comprises radical scavengers, glutathione, as the chemical component and

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activated charcoal, the claimed mineral, as the mechanical component (See Example 1).

As for claim 2, Example 1 discloses the use of citric acid.

As for claims 3-4, the composition contains at the least one particle of activated charcoal.

As for claim 7 and 19, the table disclosed in Col. 6, lines 40ff provides for the claimed amounts of antioxidants and minerals.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irimi et al (US 5,060,672) in view of Tsukamoto (US 4,260,523). Irimi teaches the use of activated charcoal to be part of the mechanical component but is silent disclosing a magnetized active carbon composition comprising activated charcoal and magnetized ferrite powder as the mechanical component. However, Tsukamoto teaches that a magnetized active carbon composition consisting of active carbon and a magnetized ferromagnetic material enhances the properties of activated charcoal and can be used to remove carbon monoxide, hydrogen and nicotine from tobacco smoke (see abstract). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to have used the activated charcoal composition of Tsukamoto in the

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smoke filter composition of Irimi in order to take advantage of the enhanced properties of magnetized charcoal as taught by Tsukamoto.

As for claims 9-10, the magnetized active carbon taught by Tsukamoto is capable of providing the claimed functions in view that it comprises the claimed materials.

As for claim 11, Tsukamoto notes that the amount of magnetized ferrite powder is about 5% by weight of the activated charcoal but does note that the amount of ferrite powder can be smaller and still provide the noted beneficial effect (Col. 13, lines 1-5). Thus clearly envisaging the claimed 1 to 3% as instantly claimed. Additionally, while Tsukamoto is silent disclosing the surface area and particle size of the activated charcoal, it would be obvious to a person of ordinary skill in the art to have provided high surface area particles in order to increase the amount of tobacco smoke contacting the activated charcoal.

Claims 15 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Irimi et al (US 5,060,672) in view of Hersh et al (US 6,415,798). Irimi generically teaches of using glutathione but does not specifically teach using L-glutathione as the radical scavengers. However, Hersh discloses the use of antioxidants to neutralize tobacco free radicals. In particular, Hersh notes of adding radical scavengers to cigarette filters (see abstract). Hersh teaches of adding the scavengers to the cigarette filter medium; see Col. 9, lines 60ff, by using L-glutathione at 1.0mg to 5mg per cigarette as a radical scavenger (see Col. 11, lines 44ff). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to have used

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known radical scavengers such as L-glutathione as taught by Hersh absent any specific teaching of Irimi, in order to provide Irimi's chemical filtering component.

As for claim 24, teaches using glutathione peroxidase, see col. 9, and lines 29ff.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is 571.272.1193. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571.272.1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, consisting of a stylized 'L' followed by a 'Z'.